

# **Government of the District of Columbia**

## **ZONING COMMISSION**



### **ZONING COMMISSION ORDER NO. 954**

**Case No. 01-25CP/16553**

**(Campus Plan and Further Processing – George Washington University)**

**January 14, 2002**

This Decision and Order arises out of an application by the George Washington University ("University" or "Applicant") for special exception approval pursuant to 11 DCMR § 3104.1, and in accordance with § 210 of the Zoning Regulations, for further processing under an approved campus plan to authorize the construction and use of a new School of Business and Public Management on the campus of the University at premises 2201 G Street, N.W. (Square 56, Lot 30).

**HEARING DATE:** December 13, 2001

**DECISION DATE:** January 14, 2002

### **SUMMARY ORDER**

The Commission incorporated into the record of Case No. 01-25CP/16553 two previously heard George Washington University further processing cases (Case Nos. 01-20CP/16553 and 01-21CP/16553) and one additional processing case, Case No. 01-23P/16553, which was heard jointly with this case.

Advisory Neighborhood Commission ("ANC") 2A was a party in this proceeding. No additional requests for party status were made.

The Applicant previously submitted a plan for developing its campus as a whole, showing the location, height, and bulk of all present and proposed improvements as required by 11 DCMR §210.4, hereinafter the "approved Campus Plan for the George Washington University for Years 2000 Through 2010" or the "approved Campus Plan". The Board of Zoning Adjustment approved the plan by order dated March 29, 2001. The Board clarified that order, on remand, by order dated December 11, 2001. The Board's order of March 29, 2001, and the remand order of December 11, 2001, directs the University to take decisive steps to house 70% of its full-time undergraduate students within the campus boundaries. To that end, the remand order directs the University to provide beds for at least 5,600 full-time undergraduate students on campus, or outside of the Foggy Bottom/West End area, no later than August 31, 2002. In addition, beginning in August 2002, the remand order directs the University to provide one bed on campus, or outside of the Foggy Bottom/West End area, for each full-time undergraduate student in excess of the University enrollment of 8,000. The remand order directs the University to meet

the aforementioned housing requirements exclusively by on-campus housing no later than August 31, 2006.

The Applicant proposes to construct a new School of Business and Public Management on a surface parking lot adjacent to Fungler Hall at 2201 G Street, N.W. (Square 56, Lot 30). The subject site was designated for academic/administrative use in the approved Campus Plan.

Square 56 is bounded by 23<sup>rd</sup> Street, G Street, 22<sup>nd</sup> Street, and H Street, N.W. The proposed project will be developed as an addition to Fungler Hall, which occupies the southern portion of the square along G Street from 22<sup>nd</sup> to 23<sup>rd</sup> Streets.

The proposed project will replace an existing surface parking lot located immediately to the north of Fungler Hall along 22<sup>nd</sup> Street, N.W. To the north of the project site, within Square 56, is Madison Hall, an eight-story dormitory. To the west is Tompkins Hall, a four-story academic building, which fronts on 22<sup>nd</sup> Street and is the home of the School of Engineering and Applied Science. Immediately to the north of Tompkins Hall is a small University surface parking lot containing 22 parking spaces.

Square 56 is zoned R-5-D. The R-5-D District permits general residential uses of high density, including one-family dwellings, flats, and apartment buildings. Certain institutional uses, including colleges and universities, are also permitted in a R-5-D District with Zoning Commission approval. The R-5-D District permits development up to a maximum height of 90 feet, a maximum floor ratio (FAR) of 3.5, and a maximum lot occupancy of 75%.

The Land Use Map Element of the Comprehensive Plan designates the subject property and square for institutional use, which is defined as land and facilities used by hospitals, colleges, and universities.

The University indicated that the objective of the proposed project is to provide a new state-of-the-art facility for the School of Business and Public Management and to thereby improve the competitiveness of this school with similar programs throughout the country. The school is currently spread out over eight different locations on campus.

Fungler Hall is a 158,000 square foot high-rise classroom and office structure that consists of two levels of parking below grade, six stories of classroom/offices above grade and a one-story mechanical penthouse above the sixth floor. The addition will replace an existing surface parking lot, which is located adjacent to Fungler Hall on 22<sup>nd</sup> Street, N.W. The addition will provide 150,000 square feet of new space for a total new area of approximately 308,000 square feet. The addition will also consist of two levels of parking below grade, six stories of classrooms/offices above grade, and a one-story mechanical penthouse above the 6<sup>th</sup> floor. The third through sixth floors within the existing Fungler Hall structure will be renovated as part of the new construction for the new addition.

The University's architect, who was recognized as an expert witness by the Commission, testified that the architectural character of the new addition to Fungler Hall will exhibit a sympathetic relationship to the existing structure while also expressing a transparency and openness that is appropriate for a modern school of business. The new structure will be constructed primarily of precast concrete and glass panels with selective accents of natural stone.

The precast concrete will be formulated to closely resemble the natural limestone found in many of the surrounding structures. Large expanses of glass will be positioned at prominent locations to allow access to natural light and provide dramatic views to the exterior.

The University's architect further testified that the building is also compatible in scale and materials with other buildings on the campus and in the immediate vicinity.

Parking currently served by the existing surface parking lot will be provided in the new building on two underground levels that will connect with the existing Fungler Hall underground-parking garage. Access to the garage will be provided via a driveway located off of H Street. Existing access to the site from 22<sup>nd</sup> Street will be eliminated.

The total number of parking spaces in the proposed, enlarged Fungler Hall will result in a small decrease (-25) in parking spaces over the current condition primarily as a result of the elimination of valet parking in the existing garage. This decrease, however, will not affect the University's ability to continue to meet the overall mandatory minimum of 2,800 parking spaces campus-wide as set by the campus plan.

An existing loading area along H Street will remain as part of the new addition and will serve as a loading area for the facilities within the block. Additionally an existing 9-foot high loading space will be maintained within the existing Fungler parking garage. These loading facilities will be adequate to meet the service and loading requirements for the new combined facility consisting primarily of daily paper waste removal and occasional letter and small package deliveries.

The proposed project complies with the matter-of-right height, lot occupancy, and yard requirements. The proposed new addition will add approximately 150,000 square feet to the existing Fungler Hall. With the proposed new addition, Fungler Hall will have a total FAR of 3.32 or approximately 308,000 gross square feet. Under matter-of-right standards, a maximum 3.5 FAR is allowed on the site.

The new addition will match the existing structure's height of 90' above grade as measured at the center of the existing façade along 23<sup>rd</sup> Street. No additional height will be added to the existing structure.

The new building footprint will result in a lot occupancy of 47.8%, well below the 75% allowance. The rear yard setback complies with the 30' setback as measured from the center of 22<sup>nd</sup> Street.

The proposed project deviates from the matter-of-right standards for penthouse structures in two respects. First, the new addition will include an additional roof structure which will not be connected to the existing roof structures on Fungler Hall. As a result, the roof structures will not comply with the zoning requirement of only one roof structure per building. (§ 411.3) Further, the new roof structure will not comply with the 1:1 zoning set back requirement around the entire perimeter of the building rooftop. (§ 400.7) A set back of only 1:0.5 is provided above the area where the new addition joins the existing structure. Such deviations are permitted by special exception where impracticalities because of operating difficulties, size of building lot, or other

conditions relating to the building or surrounding area, would tend to make full compliance under unduly restrictive, prohibitively costly, or unreasonable. (§ 411.11)

With respect to the limitation on the number of penthouse structures, the new penthouse for the addition could be physically connected to the existing penthouse on Fungler Hall resulting in a single penthouse; however, it would be impractical and undesirable from an aesthetic standpoint to do so.

With respect to the setback requirements, the proposed penthouse deviates only at the point where it sets back from the connecting point between existing Fungler Hall and the addition on 22<sup>nd</sup> Street. The building design at this location is set back from 22nd Street for aesthetic purposes.

A zoning certification from the Zoning Administrator confirming the project's conformance with all of the applicable zoning standards except the penthouse requirements were received into the record.

The recently-approved George Washington University Campus Plan designates the site for "academic/administrative" use, which is defined in the campus plan as "classrooms, laboratories, faculty offices, parking, administrative offices, auxiliary services and limited support functions." The proposed project is consistent with this designation. The proposed project site is also identified as a development site for additional academic/administration in the campus plan.

A total floor area ratio (FAR) of 3.5 is applied on an aggregate basis for university campus plans in an R-5-D zone district. With the proposed project's 3.32 FAR and taking into account a number of other pending projects, including new planned residential developments on Squares 43 and 57, the Elliott School project and a planned addition to the Academic Center, the overall aggregate FAR for the R-5-D zoned property of the University would be 2.97. This would be well below the permitted aggregate of 3.5 FAR.

Finally, upon completion of the proposed project, the total number of parking spaces on campus would remain within the minimum mandatory parking requirement of 2,800 spaces as currently required by the approved campus plan.

The University opined that the proposed development is "not likely to become objectionable to neighboring property because of noise, number of students, or other objectionable conditions" because the proposed addition will house and consolidate existing activities for the School of Business and Public Management which are currently spread over various locations on the campus. The proposed addition is not expected to increase noise, traffic, or number of students currently engaged in these activities.

By memorandum dated December 5, 2001, and by oral testimony at the December 13, 2001, public hearing, the D.C. Office of Planning concluded that the addition will be in harmony with the general purpose and intent of the Zoning Regulations and will not tend to adversely affect the use of neighboring properties. With respect to the proposed deviations from the penthouse standards, the Office of Planning opined that the Applicant's proposal to provide a separate roof structure on the new addition is sensible and desirable and that the small section where the new

roof structure is not in conformity with the 1:1 setback is not a problem. The Office of Planning recommended that the Zoning Commission approve these variations and the project as proposed.

By resolutions dated November 13, 2001 and December 17, 2001, the Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A) stated that it does not oppose the construction of a proposed project subject to the University submitting its overall plan for student housing, as well as its academic facilities plans, as mandated by the approved Campus Plan.

### **FINDINGS OF FACT:**

1. The Commission finds that the University has met the requisite burden of proof as set forth in §§ 210 and 3104.1 of the Zoning Regulations. The construction and use of the proposed addition for the School of Business and Public Management will not tend to adversely affect the use of neighboring properties nor become objectionable to neighboring properties because of noise, number of students or vehicular traffic. In so finding, the Commission credits the expert testimonies and record evidence of the University's architect, its traffic consultant, and the findings and recommendations of the D.C. Office of Planning.
2. The Commission agrees with the report of the University's expert traffic consultant that the proposed project is not likely to result in an increase in traffic and that that all intersections in the vicinity of the project site will operate at acceptable levels of service. The Commission finds further that there are a sufficient number of off-street parking spaces provided in the facility and on the campus as a whole to accommodate the development of the proposed addition. For these reasons, the Commission concludes that the approval of this application will not have an adverse effect on the use or enjoyment of neighboring property because of traffic.
3. The Commission finds that the proposed penthouse location and configuration is satisfactory and that the consolidation of the penthouse for the addition with the existing penthouse is impractical and undesirable.
4. The Commission makes the following findings with respect to the concerns submitted by ANC-2A:

The University must present its overall plan for housing full-time undergraduate students on campus. The Board of Zoning Adjustment first ordered the University to develop such a plan in its order dated March 29, 2001, approving the University's campus plan for years 2000 through 2010. On June 15, 2001, the enforcement of Condition 9 of this order was enjoined by the United States District Court. Also, the District of Columbia sought and obtained a remand of this order from the D.C. Court of Appeals. After hearings on remand, the BZA issued a proposed order on November 1, 2001, which became effective and final on December 11, 2001. In the interim, GWU has moved aggressively to create three development proposals that will increase the number of on-campus beds by 1,097, or 14%. Given the legal controversy surrounding this issue, the University's substantive steps to increase the number of on-campus beds

and the timing of the remand order, the Commission is satisfied that the University is taking reasonable steps to produce an overall housing plan in a timely manner.

5. The Board finds that the concerns submitted by other parties and persons appearing in opposition to the application are substantively similar to those submitted by ANC-2A and that the findings herein with respect to the ANC concerns adequately address the concerns submitted by those persons.
6. The Commission finds further that the University has submitted into the record a suitable statement discussing the status of the conditions imposed by the BZA in its order of March 29, 2001, and its remand order of December 11, 2001.

**Conclusions of Law:**

1. Based on the Findings of Fact and the evidence of record, the University is seeking a special exception under § 210 of the Zoning Regulations for further processing under an existing campus plan authorizing the construction an addition to Funger Hall for a new School of Business and Public Management on the campus of the University at 2201 G Street, N.W. The granting of this relief requires compliance with the provisions of §§ 210 and 3104.1 of the Zoning Regulations. The Commission concludes that the University has met its burden of proof.
2. The Commission further concludes that the proposed project is located so as not to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions. The Commission further concludes that the project will be in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.
3. The Commission concludes that it has accorded ANC-2A the “great weight” to which it is entitled. Accordingly, it is ordered that the application is **GRANTED** subject to the following conditions:
  - a. During the construction phase of the project, the University shall utilize off-campus parking facilities as set forth in the parking plan proposed by the University in its “Effects of Planned Construction on Campus Parking” submission, dated December 12, 2001.
  - b. The chiller, which was initially located outside of the penthouse enclosure, shall be relocated inside the enclosure and the emergency generator shall be relocated pursuant to the Applicant’s post-hearing submission. (Penthouse Floor Plan, A107, December 20, 2001)
  - c. If deemed desirable and approved by the D.C. Department of Public Works, the University shall install markings on the pavement and appropriate signage to indicate a mid-block crosswalk in front of the proposed addition on 22<sup>nd</sup> Street.

**VOTE:**                      **4-0-1**                      (Carol J. Mitten, James H. Hannaham, Anthony J. Hood, and Peter G. May to approve; John G. Parsons not present, not voting)

**BY ORDER OF THE ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**

Each concurring member has approved the issuance of this Summary Order.

**ATTESTED BY:**   
**JERRILY R. KRESS, FAIA**  
**Director**

**FINAL DATE OF ORDER:** APR - 3 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURES AND RENOVATIONS WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999 Repl.). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.